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15 *Attorneys for Plaintiffs and the Proposed*  
 16 *Class*

17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

19 LORA AND CLAY WOLPH, on behalf of  
 20 themselves and all others similarly situated,

21 Plaintiffs,

22 vs.

23 ACER AMERICA CORPORATION, a  
 24 California corporation,

25 Defendant.

CASE NO. CV-09-01314 JSW

(Assigned to the Honorable Jeffrey S. White)

**CLASS ACTION**

**JOINT STIPULATION AND [~~PROPOSED~~]  
 ORDER REGARDING EXPERT  
 DISCOVERY**

26 Plaintiffs LORA AND CLAY WOLPH and Defendant ACER AMERICA

27 CORPORATION hereby enter the following Joint Stipulation and [Proposed] Order Regarding  
 28 Expert Discovery (“Order”) in the above-captioned proceeding:

1. In order to avoid consuming the parties’ and the Court’s time and resources on potential discovery issues relating to experts, the parties have agreed to certain limitations on the scope of expert-related discovery. Neither the terms of the Order nor the parties’ agreement to

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1 them implies that any of the information restricted from discovery in this Order would otherwise  
2 be discoverable.

3           2.       The parties will make all disclosures required by Federal Rule of Civil Procedure  
4 26(a)(2)(B), except as modified or limited by this Order, in accordance with the deadlines set forth  
5 in any operative case management or scheduling Order as may be entered or amended by the  
6 Court. In addition, the parties will supplement such disclosures no later than 5 business days  
7 before an expert’s deposition and at such time will serve those supplemental disclosures on  
8 opposing counsel via electronic mail.

9  
10           3.       The following categories of documents, data, and information need not be disclosed  
11 by any party and are outside the scope of permissible expert discovery for any time during the  
12 pendency of the above-captioned litigation:

13                   (a)     any written or oral communications (including notes, emails and/or  
14                                memoranda memorializing the same) between or among: (1) expert  
15                                witnesses and counsel; (2) expert witnesses and other expert witnesses or  
16                                consultants; and/or (3) expert witnesses and their respective staffs;

17                   (b)     any notes, draft reports, draft studies, draft work papers, or other  
18                                preliminary calculations, computations, data runs, or work prepared by, for,  
19                                or at the direction of an expert witness.  
20

21           4.       The protections against discovery contained in paragraph 3 above will not apply to  
22 any communications, documents, data, statistical analyses, notes, computations, data runs, or work  
23 or other information upon which an expert witness relies for any of his or her opinion(s) in this  
24 matter. Data, statistical analyses, or other information (including any calculation or exhibit) upon  
25 which an expert relies for any of his or her opinion(s) in this matter shall be provided in electronic  
26 or machine readable format, including any data that has been cleaned, reformatted, or modified in  
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1 any way from the form in which it may have been provided to the expert. To the extent the data  
2 relied upon by such person was not cleaned, reformatted, or modified in any way and was  
3 previously produced in this litigation, the party will provide a list identifying the data and/or other  
4 information by document number. All documents, data, and other information shall be provided  
5 in a format as agreed to by the parties, but no party need produce computer software that is  
6 reasonably and readily commercially available (*e.g.*, Microsoft Word, Excel).  
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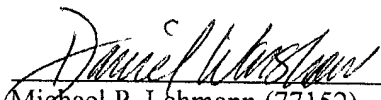
8 5. Nothing in this stipulation shall be construed to prevent deposition questions  
9 relating to the substance of the testifying expert's opinions (including alternative theories,  
10 methodologies, variables, or assumptions that the expert may or may not have considered in  
11 formulating his or her opinions or in preparing his or her report) or to any communications or  
12 other information upon which an expert witness specifically relies for any of his or her opinion(s)  
13 in this matter.  
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15 6. Nothing in this stipulation shall be construed to preclude reasonable questions at  
16 deposition concerning the expert's compensation, hours expended in preparing his or her report  
17 and testimony, and frequency and duration of meetings with counsel regarding his or her report.  
18 Written engagement letters and other documents defining or limiting the scope of work to be  
19 performed by the expert are discoverable. Invoices to the parties and time records maintained by  
20 experts (or their firms) that identify the individuals who worked on the engagement and the hours  
21 they worked are discoverable.  
22

23 7. No subpoenas (for depositions or documents) need be served on any testifying  
24 expert from whom a report or declaration is provided. Instead, the party retaining such expert will  
25 make the expert available for deposition, at a time mutually agreed to by the parties and consistent  
26 with the Court's scheduling orders.  
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1 8. The parties agree to comply with this Order pending the Court's approval and entry  
2 of this Order.

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4  
5 DATED: January 11, 2010

  
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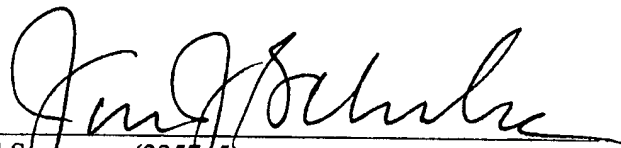
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DATED: January 11, 2010



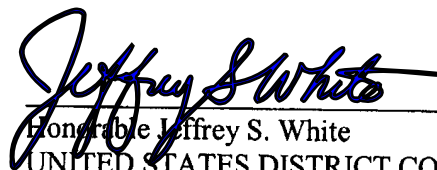
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*Attorneys for Defendant Acer America Corporation*

**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

Dated: January 14, 2010



Honorable Jeffrey S. White  
UNITED STATES DISTRICT COURT

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